

Remarks/Arguments:

Claims 1-26 are pending in this application. Of these, claims 1, 9 and 17 are independent claims.

The wording of independent claim 17 has been amended for clarity. New claim 26 has been added. No new matter is believed to have been added by these amendments.

In the Office Action, the Examiner maintained the rejection of claims 17-25 as failing to comply with 35 USC 101. The language used in the rejection is identical to the language used in the first Office Action dated April 1, 2008.

In its response dated June 26, 2008 (the “first response”), the Applicant submitted that the original rejection under 35 USC 101 was not well founded. The Applicant’s argument in support of this submission was set forth at page 2 of that response. Yet, the Applicant’s submission was apparently overlooked, as it was not even acknowledged in the outstanding Office Action. Accordingly, the Applicant reiterates the same argument in the present response and specifically asks that it be taken into consideration in the context of considering this paper. The Applicant further submits that it is well established that subject matter of the claims at issue is within the bounds of 35 USC 101 (see MPEP 2106.01 (I), specifically *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035). Withdrawal of the rejection is therefore requested.

The Examiner has rejected all of the claims under 35 U.S.C. 103(a) as unpatentable over Palaniappan (U.S. Patent No. 6,711,557) in view of Fascenda (U.S. Patent No. 6,466,937). This

rejection is respectfully traversed on the basis that no *prima facie* case of obviousness has been established in respect of any of claims 1-26. The reason is that, contrary to the Examiner's suggestion, each claim includes at least one limitation that is not described in either reference.

In the first response, the Applicant noted that claim 1 includes the following limitations: "in response to either of a new application being made available at a server or an updated version of an application being made available at a server, transmitting a message ... to a set of wireless communications devices indicating that said new or updated application is available" [emphasis added]. The Applicant further pointed out that Palaniappan discloses essentially the opposite, in that responsibility for determining whether an update is available is given to the client machine. Specifically, a background process 70 executing at the client machine periodically "wakes up" and initiates contact with a server machine to request meta-information regarding participating applications (see col:lines 3:52-54 and 3:59-62).

This argument was seemingly accepted by the Examiner, who has now acknowledged that Palaniappan "did not disclose in response to either of a new application being made available at a server or an updated version of an application being made available at a server, transmitting a message over a wireless connection to a set of wireless communications devices indicating that said new or updated application is available" (see page 3, last sentence to page 4, line 3). Yet it is concluded that this feature is disclosed in Fascade at column:line 10:62-11:21 and that claim 1 is therefore obvious. The Applicant strongly contests this conclusion. The reason is that, in Fascade, the responsibility for determining whether an update is available actually lies with the client machine, much like in Palaniaapan.

For example, at Fascenda 11:4-11:21, it is stated that:

“Therefore, at any given time, it is possible a client device 108 includes an old version of a template, that is, an out-of-date template that requires updating. When server 114 receives information request message 316 from client device 108, server 114 determines whether the template (at client device 108) associated with the request message is the most current template (for example, an updated template). If the template is an old version, server 114 retrieves the most current template from server template database 330, and then transmits an appropriate template update, along with the requested information, to client device 108 using response message 318. In this manner, server 114 distributes the most current template versions to client devices 108 on a per access and an as needed basis.”

[emphasis added]

As emphasized above, the updating of templates is triggered by receipt of the information request message 316 from the client device 108. This means that the client initially generates and sends the request message 316 to cause the templates to be updated. This is confirmed by the following statements at Fascenda 14:52-57, which clearly indicate that the procedure is client-initiated:

“D.1. Information Request and Response Messages

FIG. 9A is an illustration of an exemplary information request message 900 (corresponding to information request message 316 of FIG. 3) transmitted by

client device 108. The information request message (e.g., 900) is also referred to as a client request, since it is initiated by client device 108.” [emphasis added]

In view of the above-emphasized disclosure, it is clear that Fascenda does not in fact teach or suggest the limitation that is missing from Palaniappan. Since the limitation is not shown in either reference, it follows that no *prima facie* case of obviousness has been established in respect of claim 1. The Applicant therefore respectfully requests withdrawal of the 35 USC 103(a) rejection of claim 1.

Claims 9 and 17 are server and machine-readable medium claims (respectively) corresponding to method claim 1 which were rejected on the same grounds as claim 1. The Applicant's arguments regarding claim 1 are equally applicable to these claims. Accordingly, the Applicant respectfully requests that the rejections of claims 9 and 17 also be withdrawn, for the same reasons.

Given that the independent claims distinguish over the cited art, the remaining claims, which depend from the independent claims, also distinguish over the art of record.

In view of the foregoing, favorable reconsideration and allowance of the application are earnestly solicited.

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